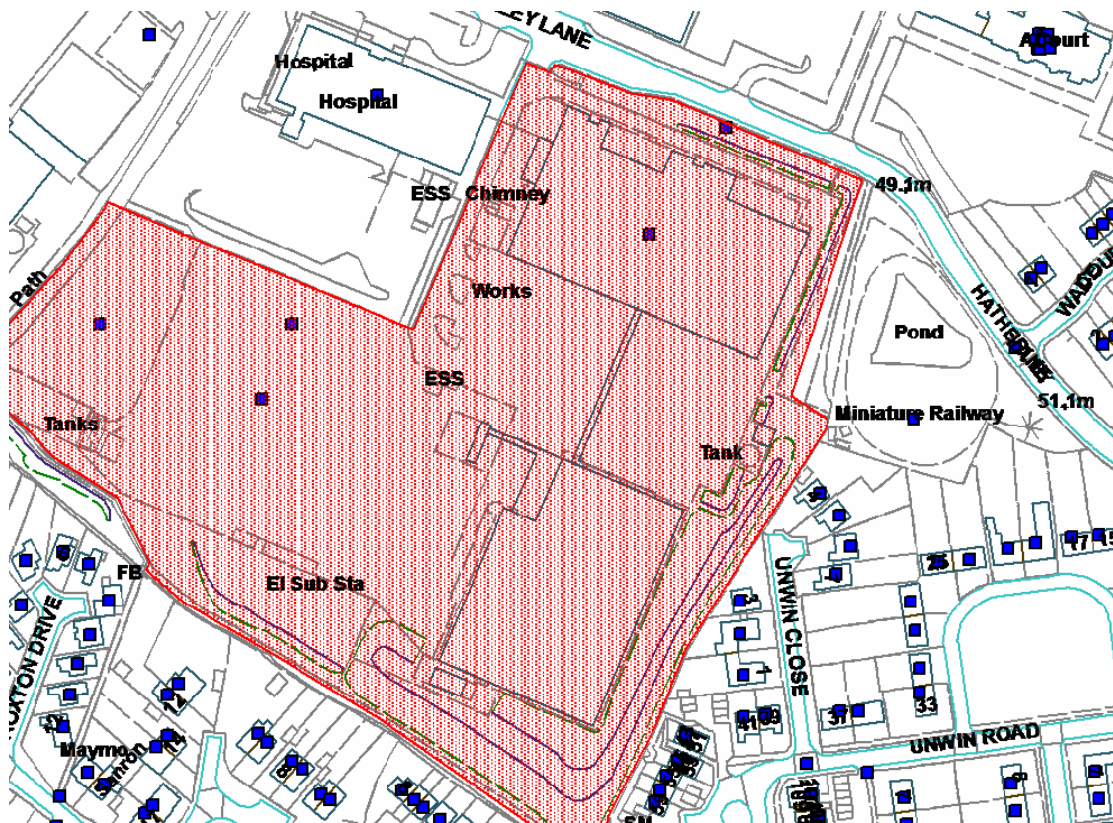


APPLICATION NO: 14/00766/CONDIT		OFFICER: Mr Martin Chandler
DATE REGISTERED: 2nd May 2014		DATE OF EXPIRY: 1st August 2014
WARD: Benhall/The Reddings		PARISH:
APPLICANT:	Mr Alan Jones	
AGENT:	RPS Planning & Development	
LOCATION:	ASDA Stores Ltd, Hatherley Lane, Cheltenham	
PROPOSAL:	Variation of condition 36 on planning permission 10/00252/FUL to extend the opening/closing times of the foodstore and petrol station	

RECOMMENDATION: Permit



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1. DESCRIPTION OF SITE AND PROPOSAL

1.1 The application seeks to increase the hours of operation for the existing 'Asda' supermarket on Hatherley Lane. When planning permission was originally granted (ref: 10/00252/FUL) a condition was attached to the consent to restrict hours of operation. This condition allowed for the following;

1.2 *The hours of opening of the supermarket for retail sales and fuel sales shall be:*

- *Monday 0800 – 2300*
- *Tuesday 0700 – 2300*
- *Wednesday 0700 – 2300*
- *Thursday 0700 – 2300*
- *Friday 0700 – 2300*
- *Saturday 0700 – 2359*
- *Sunday 1000 - 1600*

Reason: to limit disturbance to neighbouring residents during unsocial hours, in accordance with Policy CP4 of the Cheltenham Borough Local Plan 2006.

1.3 The application seeks to allow the store and petrol station to trade between the hours of 0600 – 2359 every day except Sundays. The application proposes that the food store opening hours remain as approved on Sundays, but that the petrol filling station be amended to allow Sunday operations between the hours of 0800 – 2000.

1.4 The application is before Planning Committee at the request of Cllr Fletcher to enable consideration of neighbouring amenity issues.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Landfill Sites boundary

Relevant Planning History:

08/01684/OUT 21st July 2009 PER

Outline application for the erection of 24465m² of employment floorspace (Use Class B1) including the provision for small ancillary services including a Creche (Use class D1), Shop (Use class A1), two cafes/restaurants (Use class A3) and gymnasium (Use class D2)

10/00252/FUL 7th July 2010 PER

Proposed mixed use development comprising 7,608 sq m of class B1 office space and 6,919 sq m of class A1 food store, petrol filling station, ancillary uses and associated works

10/01708/CONDIT 17th December 2010 PER

Variation of condition 20 (relating to cycle storage) on planning permission 10/00252/FUL to enable a phased implementation of the approved development

11/00015/AMEND 1st February 2011 PAMEND

Non material minor amendment to provide home shopping facility, adjustments to customer entrance lobby location, and small modifications to approved elevations and car park layout

11/00658/AMEND 27th July 2011 PAMEND

Non material minor amendment to planning permission 10/00252/FUL, to allow for the omission of colleagues/visitors stair and lift tower, revised location of escape door from customer restaurant, penthouse ventilation louvres to loading bay canopy, omission of sedum roofed cycle shelter, omission of right-turn lane to petrol filling station and the retention of existing gas building

11/00748/ADV 27th July 2011 GRANT

Erection of illuminated and non illuminated signs to the store, car park and petrol station (approved under ref: 10/00252/FUL)

12/01860/FUL 25th January 2013 PER

Erection of canopy in customer car park over 'Grocery Collection' point

12/01860/ADV 25th January 2013 GRANT

Proposed advertisements for 'Grocery Collection' point

13/00586/CONDIT 20th June 2013 PER

Removal of condition 38 on planning permission 10/00252/FUL - to allow pharmacy facilities in store

14/00233/FUL 10th April 2014 PER

Alterations to existing petrol station forecourt, approach and associated landscaping.

3. POLICIES AND GUIDANCE

Adopted Local Plan Policies

CP 4 Safe and sustainable living

National Guidance

National Planning Policy Framework

4. CONSULTATIONS

Environmental Health

23rd June 2014

The application to extend hours of opening at ASDA was reviewed by Sarah with my assistance.

As far as I can see any impact on the local residents from the additional opening hours requested would be minimal. The principal noise source from this store which has potential to affect residents would be noise from deliveries to the delivery bays at the rear of the store. This area already receives deliveries 24 hours a day which, bar a couple of initial teething problems, have not produced complaints since the store came in to use. The delivery area is protected by an acoustic fence and the store operates a system whereby vehicles must stop away from the site and ring ahead to ensure the delivery area is clear before proceeding with their delivery. This ensures that vehicles (and in particular refrigerated vehicles) are not left running outside the delivery yard gates for prolonged periods. The quantity of customer traffic accessing the store during the extended hours is not likely to significantly increase noise levels in nearby properties.

I therefore have no objection to the extended opening hours requested at this site, or recommendations for further conditions to be attached to this permission.

Let me know if you have queries.

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	55
Total comments received	9
Number of objections	9
Number of supporting	0
General comment	0

5.1 The application was advertised by way of site notice and letters to nearby properties. In response to this publication, nine letters of objection were received. The concerns raised are summarised below;

- Staff comings and goings already cause disturbances;
- Light pollution;
- Delivery arrangements cause disturbances;
- The increase in hours are unnecessary – the store does not open to the extent allowed by the original planning permission;
- Highway implications;
- Potential ‘creep’ towards 24hr operations;
- Inappropriate within a residential area;
- Potential increase in the number of deliveries necessary;
- Noise survey not a true reflection of on site activities.

5.2 These matters will be considered in the following section.

6. OFFICER COMMENTS

6.1 Determining Issues

6.1.1 The key consideration in relation to this application principally relates to neighbouring amenity. Whilst some residents have commented on highway implications, officers are of the view that the additional trading hours will have a negligible impact on the highway network.

6.2 The site and its context

6.2.1 The application site constitutes a recently constructed supermarket. The site, formally occupied by Woodward Engineering, lies adjacent to the Nuffield Hospital with other commercial buildings forming its immediate context. Notwithstanding this commercial character, the site is also bounded by a number of residential properties.

6.2.2 The store building itself occupies the south east corner of the application site. The partially undeveloped land to the west has planning permission for further office buildings.

6.3 Extending the hours of operation

6.3.1 Members will note from the representations received that many residents are concerned with the impact the additional trading times will bring in terms of noise and disturbance. With

this in mind, it is necessary to assess the application against the provisions of Local Plan policy CP4 which requires development to protect the existing amenity of neighbouring land users and the locality.

- 6.3.2** When assessing the merits of this application, it is also important to be mindful of the fact that the original planning permission places no restriction on delivery arrangements. The reason for this was the level of detail provided with the application in terms of the delivery yard and how it mitigated against the impact on neighbouring amenity.
- 6.3.3** To accompany the application, a noise impact assessment has been submitted; the assessment is based on the store trading 24hrs and therefore represents a worst case scenario. The measurements were taken from the eastern boundary of the site, adjacent Unwin Close and the assessment then considers the impact of both the food store car park and the petrol filling station.
- 6.3.4** The conclusions of the noise assessment are quite clear, stating that there will be a negligible impact on the noise sensitive properties, which are taken as the nearest affected residential properties (those in Unwin Close) and the adjacent Hospital.
- 6.3.5** When assessing the impact on the residential properties, the World Health Organisation (WHO) standards for sleep disturbance are considered. Based on the measurements recorded, the submitted assessment concludes that the increased activities associated with both the petrol filling station and the car park will be comfortably below the maximum WHO standards and also comfortably within the existing background noise 'climate'. In this respect, it is difficult to argue that the proposal will harm neighbouring amenity.
- 6.3.6** The assessment on the adjacent hospital is measured against the Department of Health standards for 'noise intrusion from external sources' and again the proposed increase in opening hours is predicted to have a negligible impact.
- 6.3.7** It should be stressed that the assessment makes provision for the likely noise generating activities in these extended times; car movements, doors and boots being opened and shut, trolley movements, and engine start up. It is also based on worst case scenarios in terms of hours of operation.
- 6.3.8** The assessment is unequivocal in its findings; the noise impact of the extended opening hours is negligible and does not require any mitigation. The Environmental Health team have also raised no objection to the proposal.
- 6.3.9** It is accepted that a number of residents have raised concerns that existing activities on site have and do cause disturbances and whilst this cannot be dismissed, in light of the technical advice set out in this report, it is difficult to attach a significant level of weight to these objections. The Environmental Health team have not made reference to specific complaints associated with the activities of the food store and members will be well aware that decisions on planning applications need to be based on objective assessments. The noise impact assessment provides an objective analysis of the proposals based on a worst case scenario and concludes that the additional opening hours will not impact on neighbouring properties. The proposal is also supported by the Council's Environmental Health team and therefore officers consider that the scheme is fully compliant with Local Plan policy CP4.

6.4 Other considerations

- 6.4.1** Members will note from the objections that reference is made to the delivery arrangements for the store and how this has caused some disruption to adjacent residents. It is also suggested that if the additional hours of operation are approved, this may lead to additional deliveries. Clearly, the reference to additional deliveries is based on supposition and cannot be afforded any weight. In any event, there are no restrictions on when deliveries arrive at

the store and therefore Asda would not be in breach of their planning consent if deliveries arrived on a 24 hours basis. It is of note that the Council's Environmental Health team consider the delivery arrangements to be working successfully despite some initial teething problems but members are reminded that this application has no bearing on deliveries to the store.

- 6.4.2** Some representations have also made reference to the necessity of this application, pointing to the fact that the current opening hours are less than the planning permission allows for (the store currently shuts at 2200hrs Monday - Saturday). This is not relevant to the consideration of this application; members are required to determine the application that is before them and 'need' for the increased trading hours is not a material consideration.
- 6.4.3** Finally, the representations also make reference to the lights within the store car park. It is suggested that an increase in trading hours will require the lights to be left on for longer. With this in mind, members are advised that the original planning permission placed a restriction on the illumination of the car park, requiring the three lights closest to Unwin Close to be switched off between the hours of 2300 – 0700hrs. This restriction was based on a lighting assessment which analysed the impact illumination would have on neighbouring dwellings. The lighting scheme was found to be acceptable, apart from the three lights referenced in the condition. Should permission be granted for this application, these restrictions will remain in place.

7. CONCLUSION AND RECOMMENDATION

- 7.1** To conclude, it is considered that this application constitutes a well thought through proposal that gives due consideration to neighbouring amenity. The submitted noise impact assessment is quite clear in its conclusions that the proposed increase in trading hours will have a 'negligible' impact on adjacent properties in terms of noise impact and this is endorsed by the Council's Environmental Health team.
- 7.2** Given that the proposal turns on this one principal issue, it is considered that the application is one that should be supported. It is fully compliant with local plan policy CP4 and it is therefore recommended that members resolve to grant planning permission for this application to vary the operating hours of the food store and petrol station.

8. CONDITIONS / INFORMATIVES

- 8.1** These will be circulated as an update.